THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 24760 of 2001

O r d e r:

By this writ petition, the petitioner seeks a Writ of Mandamus declaring the final order dated 15.06.2001, passed by respondent No.1 in proceedings No.V-15014/CISF/VPT/PR/MAJ-4/TNR/2K-01/5808, dismissing the petitioner from service, as confirmed by respondent No.2 vide orders dated 06.08.2001 passed in proceedings Rc. No. V-11014/44/2001/C & R(52)/6097, as illegal and arbitrary, and consequently to direct the respondents to reinstate the petitioner into service with all consequential benefits.

The petitioner joined the service of the respondents-Central Industrial Security Force (CISF) as Constable on 28.06.1990. He worked at various locations of the respondents. While so, on certain acts of misconduct, the petitioner was placed under suspension. Thereafter, a memorandum containing articles of charges, was issued to the petitioner on 02.11.2000. The petitioner submitted his explanation to the charges. The respondents dissatisfied with the explanation, ordered departmental enquiry. The Enquiry Officer, after conducting the enquiry, submitted his report holding that Charge Nos. 1 and 3 are proved and Charge No.2 to the extent of the first part is proved. Based on the enquiry report, the disciplinary authority, issued show cause notice to the petitioner, to which he submitted his explanation. Dissatisfied with the explanation, respondent No.1, namely the disciplinary authority, passed final orders on 15.06.2001, imposing penalty of dismissal from service. Aggrieved thereby, the petitioner preferred appeal before respondent No.2, who by reason of the order impugned in this writ petition, confirmed the same.

The learned counsel for the petitioner submitted that none of the witnesses identified the petitioner, and as such, merely based on the *ipse dixit* statement of the witnesses, the Enquiry Officer, could not to have held that the charges leveled against the petitioner are proved. He thus submitted that the findings arrived at by

the Enquiry Officer are based on no evidence and without affording opportunity to the petitioner, and as such, are perverse. Therefore, the order of dismissal from service passed by the disciplinary authority, based on the perverse enquiry report, as confirmed by the appellate authority, is illegal and arbitrary. In support of his contention that if the findings arrived at by the Enquiry Officer in the departmental enquiry are based on no evidence or the evidence is so that no prudent man could have reached the findings which the Enquiry Officer had reached, the High Court in exercise of its power of judicial review can interfere with the findings, placed reliance on the judgment of the apex Court in **Kuldeep Singh v. Commissioner of Police**. He submitted that the petitioner has rendered unblemished service and has very good track record, and this is evident from the fact that the respondents have issued several commendation certificates. At any rate, he submitted that the punishment of dismissal from service is disproportionate to the misconduct alleged, and prayed that the impugned order passed by the appellate authority, confirming the order of dismissal from service, passed by the disciplinary authority be set aside.

On behalf of the respondents, the Deputy Inspector General has filed a counter-affidavit. The learned Assistant Solicitor General denied the contention of the petitioner that he was not identified by the witnesses. He submitted that though the petitioner was not directly identified by the witnesses, the witnesses in their statements stated that one Mr. Rao, had demanded bribe from them, and inasmuch, except the petitioner, no other person with Rao suffixed to his name, was detailed to the recruitment, the Enquiry Officer, having regard to the fact that P.W.6, Dr. Durga Rajanala, who identified that the petitioner is the person, who approached her to declare fit an unfit candidate for selection, came to the conclusion that the petitioner was guilty of the charge leveled against him. As the charge of demanding bribe from unemployed youth for getting them employed, is a corrupt practice and constitutes a serious misconduct, no exception can be taken to the order passed by the appellate authority, confirming the order passed by the disciplinary authority, imposing punishment of dismissal from service, and having regard to the nature of proved misconduct, it cannot be said that the punishment imposed is disproportionate. He hence prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Assistant Solicitor General for the respondents.

The law is well settled that the High Court in exercise of its power under Article 226

of the Constitution does not interfere with the findings arrived at by the Enquiry Officer in the departmental enquiry as a matter of course. It is also well settled that the High Court would not sit in appeal over the findings arrived at by the Enquiry Officer and assume the role of an appellate authority. However, if the findings arrived at by the Enquiry Officer in the enquiry are not supported by any reasons on record or are not based on the evidence of the parties or the findings arrived at are such as no reasonable man could have arrived at, then this Court has the power to reject the said findings as being perverse and based on no evidence. To this effect is the judgment of the apex Court in **Kuldeep Singh v. Commissioner of Police** upon which the learned counsel for the petitioner placed heavy reliance. Therefore, keeping these settled principles in view, it may be noticed, whether in the instant case, the findings arrived at by the Enquiry Officer in the departmental enquiry, based on which the order of dismissal, passed by the disciplinary authority, as confirmed by the appellate authority in appeal, are perverse, warranting interference by the Court with the said findings in exercise of its power of judicial review.

The charges leveled against the petitioner are that when he was detailed for recruitment of Constables in CISF at Bhopal, he indulged in corrupt practice of demanding bribe for getting candidates recruited and getting declared the unfit candidates medically fit for the purpose of selection. The petitioner, admittedly, was detailed as security aid to the Commandant, who was deputed for selecting Constables. Though all the witnesses during the course of disciplinary enquiry, did not specifically identify the petitioner as the person who demanded money, the Enquiry Officer, took other circumstances to hold that the charges leveled against the petitioner are proved. The Enquiry Officer recorded a finding that P.W. 10, who is the father of P.Ws. 8 and 9, had deposed that one Mr. Rao had come to him and demanded money, for the recruitment of her daughters and medical fitness. This version of P.W.10 was supported by P.Ws. 8 and 9. Though, the petitioner contends that Mr. Rao, who P.Ws. 8, 9 and 10, had referred to may be some other person, the fact remains, P.W.6, Medical Officer, had identified the petitioner to be the person who had approached her to declare medically fit two unfit candidates for selection, and this apart, even P.W.7 in his evidence had stated that the petitioner was detailed as security aid to the Commandant. The fact that except the petitioner, no other person by name Rao, was detailed to the recruitment job, is evident from the letter of the Commandant. The Enquiry Officer, taking the said circumstances into

consideration, recorded that the charges leveled against the petitioner are proved. The findings recorded by the Enquiry Officer, as stated above, cannot be said to be not based on evidence, rendering them perverse.

Abetment of and taking of illegal gratification for getting done or doing official favours is an offence under the provisions of the Prevention of Corruption Act, 1988, and having regard to the charge leveled against the petitioner, namely taking bribe for getting candidates recruited and taking money for getting medically unfit persons fit for selection, which stood proved in the departmental enquiry, and having regard to the fact that the proved misconduct is very serious in nature, which had the effect of casting doubt on the very recruitment process, I am of the considered opinion that no exception can be taken to order of the appellate authority, confirming the order of dismissal from service, passed by the disciplinary authority on the petitioner. Merely because the services of the petitioner received commendation at the hands of the respondents, it does not mean that he should be visited with a lesser punishment. Having regard to the nature of proved misconduct, the punishment of dismissal from service, imposed by the disciplinary authority, as confirmed by the appellate authority, cannot be said to be disproportionate, warranting interference by this Court.

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 16th March, 2006.

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